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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,632	04/17/2001	David A. Hughes	50P4090	7227

24337 7590 07/13/2004

MILLER PATENT SERVICES  
2500 DOCKERY LANE  
RALEIGH, NC 27606

EXAMINER

GART, MATTHEW S

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/836,632	Applicant(s) HUGHES ET AL. <i>GT</i>	
	Examiner Matthew s Gart	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-22, 24-35 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-22, 24-35 and 37-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claims 1-8,10-22,24-35 and 37-41 are pending in the instant application. Claims 9, 23 and 36 were canceled via the applicant's response on 5/28/2004

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-8, 10-22, 24-35 and 37-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Fritsch U.S. Patent 6,233,682.**

Referring to claim 1. Fritsch discloses a method for facilitating a transaction for purchasable content over an electronic network, the method comprising:

- Maintaining a first presence on the electronic network to which a consumer may connect (Fritsch: Figure 1A shows an illustration of the video display screen as viewed by the PC user after connecting to the vendor's web site for distributing musical products);
- Transmitting a first page from the first presence to the consumer over the electronic network, the first page including information concerning the purchasable content, the purchasable content including both downloadable

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digital data and physical media containing at least one of digital and analog data (Fritsch: Figure 1A shows an illustration of the video display screen as viewed by the PC user after connecting to the vendor's web site for distributing musical products);

- Receiving a command from the consumer over the electronic network indicating that the consumer wishes the transaction for certain of the purchasable content (Fritsch: Abstract, "If the PC user then wishes to purchase the song, she can submit her order by clicking on the icons located next to each song/album");
- Determining that the certain of the purchasable content includes downloadable digital data; and
- Automatically linking the consumer to a second presence on the electronic network in response to the command such that a second page is transmitted from the second presence to the consumer over the electronic network, the second page including information concerning how to complete the transaction for the certain of the purchasable content, and such that the consumer may complete the transaction for the certain of the purchasable content from the second presence (Fritsch: Figure 1E illustrates in detail the shopping basket containing the desired items).

Referring to claim 2. Fritsch further discloses a method comprising displaying the first page in a first window and the second page in a second window (Fritsch: Figure 1A, Figure 1C and Figure 1E).

Referring to claim 3. Fritsch further discloses a method wherein the first and second windows are displayed simultaneously on a monitor (Fritsch: Abstract, "The order will be reflected in the shopping basket, always visible on the screen.").

Referring to claim 4. Fritsch further discloses a method wherein the first window is branded by a first entity and the second window is branded by a second entity (Fritsch: Figure 1A and Figure 1E).

Referring to claim 5. Fritsch further discloses a method wherein the second window is activated when the second page is received by the consumer over the electronic network and the first window is not active when the second window is activated (Fritsch: column 4, lines 5-28).

Referring to claim 6. Fritsch further discloses a method wherein the second window is closed when the transaction for the certain of the purchasable content is completed (Fritsch: column 4, lines 5-28).

Referring to claim 7. Fritsch further discloses a method comprising automatically linking the consumer to the first presence on the electronic network when the transaction for the certain of the purchasable content is complete (Fritsch: column 4, line 47 to column 5, line 9).

Referring to claim 8. Fritsch further discloses a method comprising automatically linking the consumer to a third presence on the electronic network when the transaction for the certain of the purchasable content is complete (Fritsch: Figure 1D).

Referring to claim 9. Fritsch further discloses a method wherein the purchasable content includes at least one of downloadable digital data and physical storage media (Fritsch: Figure 1D).

Referring to claim 10. Fritsch further discloses a method wherein the physical storage media include at least one of optically readable media, magnetically readable media, and mechanically readable media (Fritsch: Abstract).

Referring to claim 11. Fritsch further discloses a method wherein an entity associated with the first presence does not have custody of the downloadable digital data (Fritsch: Abstract).

Referring to claim 12. Fritsch further discloses a method wherein an entity associated with the second presence has custody of the certain of the purchasable content (Fritsch: Abstract).

Referring to claim 13. Fritsch further discloses a method wherein the second page includes at least one of: (i) registration inputs for registering the consumer; (ii) login inputs for permitting the consumer access to further portions of the second page; (iii) summary information including at least one of a list of the purchasable content selected by the consumer, and remittance information for the purchasable content selected by the consumer; and (iv) billing inputs for receiving information from the consumer concerning a remittance method (Fritsch: Figure 1E).

Referring to claim 14. Fritsch further discloses a method wherein the summary information and the billing inputs are included on the further portions of the second page (Fritsch: Figure 1E).

Referring to claim 15. Fritsch further discloses a method wherein the electronic network comprises the Internet and the first and second presences comprise respective web sites thereon (Fritsch: Abstract).

Referring to claim 16. Fritsch further discloses a method comprising allowing the consumer to browse a first presence on the electronic network to obtain information concerning the purchasable content (Fritsch: Abstract).

Referring to claims 17-27. Claims 17-27 are rejected under the same rationale as set forth above in claims 1-16.

Referring to claims 28-41. Claims 28-41 are rejected under the same rationale as set forth above in claims 1-16.

### ***Response to Arguments***

Applicant's arguments filed 5/28/2004 have been fully considered but they are not persuasive.

The Attorney argues that Fritsch does not disclose, "... automatically linking the consumer to a second presence on the electronic network in response to the command such that a second page is transmitted from the second presence to the consumer over the electronic network."

The Examiner notes, Fritsch does disclose "... automatically linking the consumer to a second presence on the electronic network in response to the command such that a second page is transmitted from the second presence to the consumer over the electronic network."

The Examiner further notes, FIG. 1A shows an illustration of the video display screen **10** as viewed by the PC user after connecting to the vendor's web site for distributing musical products. As shown in the figure, the web site display is divided into 2 portions (two presences): main portion (presence) **12** on the left side of the screen **10** contains fields for entering music-related search queries. For example, the PC user may search for desired songs by artist after entering the artist's name. The operation is carried out by various search engines for searching relational databases. Alternatively, the PC user may look for a song by title or album name. Furthermore, as shown in FIG. 1A, songs and/or albums attributed to different genres may be displayed on the screen in response to the PC user's selection. The right portion (presence) of the display screen is independently controlled from the left portion and includes the "Shopping List" heading, as well as the login procedure for PC users. In particular, when a PC user desires to purchase a song or an album, she registers with the web site vendor using the on-line login procedure. The registration comprises entering the username and password to gain access to the web site vendor's products. When a new PC user logs in, she selects a username and password and then clicks on the "New User" software button on the screen. The new PC user is then requested to re-confirm the selected password by entering the password once more. If the password is properly re-confirmed, she is allowed to purchase CDs, download digital music, or make other purchases from the web site.



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The Attorney notes, the claims have been amended to incorporate the feature that the purchasable content comprises both the downloadable data and physical media.

The Examiner notes, on the web site, the on-line customer may pre-listen to the desired music prior to the purchase. Following the pre-listen operation, the on-line customer may place an order for an immediate digital delivery of the selected music, book, etc., if available in digital format. Alternatively, she can order the selected information, such as text, moving or still images, graphics, etc., to be downloaded to her computer. Yet another option is to mail order CDs, video cassettes or disks, books, etc., for delivery to the designated place, such as home, place of work, friend's home. Still another option for the on-line consumer is to mail order a personally compiled CD containing selections from various artists, as specifically prepared by the web site vendor. Of course, those and additional buying options are presented to the on-line consumer via the graphical user interface (GUI) on the web site.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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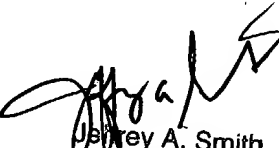
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew s Gart whose telephone number is 703-305-5355. The examiner can normally be reached on 8:30AM to 5:00PM m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG  
June 28, 2004



Jeffrey A. Smith  
Primary Examiner